Vulcan Golf, LLC v. Google Inc. et al Doc. 228

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VULCAN GOLF, LLC, JOHN B. SANFILIPPO & SON, INC., BLITZ REALTY GROUP, INC., and VINCENT E. "BO" JACKSON, individually and on behalf of all others similarly situated,	) Case No. 07 CV 3371
Lead Plaintiffs,	) The Honorable Blanche M. Manning
v.	) Magistrate Judge Geraldine Soat Brown
GOOGLE INC., OVERSEE.NET, SEDO LLC, DOTSTER, INC., AKA REVENUEDIRECT.COM INTERNET REIT, INC. d/b/a/ IREIT, INC.; and JOHN DOES I-X,	)
Defendants.	)

DECLARATION OF JOSEPH C. GRATZ IN SUPPORT OF DEFENDANTS' CONSOLIDATED SUR-REPLY TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Dockets.Justia.com

I, Joseph C. Gratz, declare as follows:

1. I am an attorney licensed to practice law in the state of California and am an associate with the law firm of Keker & Van Nest LLP, counsel for defendant Google Inc. in the above-captioned action. I have knowledge of the facts set forth herein and, if called to testify as a witness thereto, could do so competently under oath.

2. Attached hereto as Exhibit A is a list of domain name proxy companies. The first column lists the name of the proxy company; the second column lists the approximate number of domains for which that proxy company is listed as the legal registrant; and the third column lists the location given in the contact address for that proxy company.

3. This list was generated in the following manner.

   a. An existing list of 82 domain proxy companies published on the internet by a third party, *available at* http://www.open-whois.org/, was obtained and reviewed.

   b. For each of the proxy companies listed by open-whois.org, a search engine was used to locate one example domain that listed the domain proxy company in its WHOIS information – for example, submitting the query "Domains by Proxy Inc. site:who.is" to the Google search engine to locate an example domain for the proxy company Domains by Proxy, Inc.

   c. Each such example domain was then entered into the WHOIS lookup tool offered by DomainTools.com. Where more than one domain is registered to the same entity, that tool provides a tally of the number of domains registered to that entity. For example, a DomainTools.com WHOIS lookup for the domain blitzrealtygroup.com (the legal registrant of which is Domains by Proxy, Inc.) stated that "'Domains by Proxy, Inc.' was found in about 7,269,549 other domains." *See* http://whois.domaintools.com/blitzrealtygroup.com .

   d. Exhibit A only has 54 entries because for 28 of the 82 proxy companies, the name listed as the registrant in the WHOIS information was not the same for each registrant—for example, because the name of the domain name itself was listed as the registrant. Because no tally was available for these proxy companies, they are not included on the list.

4. These steps were undertaken during the first and second weeks of October, 2008. Because domain registrations are added and dropped frequently, the precise numbers of domains for which each proxy company is the legal registrant may have increased or decreased since that time.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge. Executed October 14, 2008, at San Francisco, California.

JOSEPH C. GRATZ